


Please type a plus (+) inside this box - 

PTO/SB/29 (12/97)

Approved for use through 09/30/00. OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 8932-471 Total Pages 36

First Named Inventor or Application Identifier

Dr. Max AEBI

Express Mail Label No. N/A

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

1. ☒ Fee Transmittal Form  
Submit an original, and a duplicate for fee processing)
2. ☒ Specification [Total Pages 18]  
(preferred arrangement set forth below)

-Descriptive title of the Invention  
-Cross Reference to Related Applications  
-Statement Regarding Fed sponsored R&D  
-Reference to Microfiche Appendix  
-Background of the Invention  
-Brief Summary of the Invention  
-Brief Description of the Drawings (if filed)  
-Detailed Description of the Invention (including drawings, if filed)  
-Claim(s)  
-Abstract of the Disclosure

3. ☒ Drawing(s) (35 USC 113) [Total Sheets 9]
4. ☒ Oath or Declaration [Total Sheets 9]

- a. ☐ Newly executed (original or copy)
- b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 17 completed)  
[Note Box 5 below]
- i. ☐ DELETION OF INVENTORS(S)  
Signed statement attached deleting inventor(s) named in the  
prior application, see 37 CFR 1.63(d)(2) and 1.33 (b).

5. ☒ Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of  
the oath or declaration is supplied under Box 4b, is considered as  
being part of the disclosure of the accompanying application and is  
hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)
7. ☐ Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)
- a. ☐ Computer Readable Copy
- b. ☐ Paper Copy (identical to computer copy)
- c. ☐ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS


8. ☐ Assignment Papers (from prior application is assigned  
of record to Synthes U.S.A., recorded on July 28, 2000 at  
reel/frame 011496/0178 and also recorded on April 27, 2000 at  
reel/frame 010763/0256.)
9. ☐ 37 CFR 3.73(b) Statement ☒ Power of Attorney  
(Copy from parent)  
(when there is an assignee)
10. ☐ English Translation Document (if applicable)
11. ☒ Information Disclosure ☒ Copies of IDS  
Statement (IDS)/PTO-1449 Citations
12. ☐ Preliminary Amendment
13. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
14. ☐ Small Entity ☐ Statement filed in prior application,  
Statement(s) Status still proper and desired
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☐ Other:

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No: 09/411,161 filed October 1, 1999.

## 18. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

  
(Insert Customer No. or Attach bar code label  
here)

or ☐ Correspondence address below

NAME

ADDRESS

CITY

STATE

ZIP CODE

COUNTRY

TELEPHONE

FAX

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Prior application: Examiner D. Reip

Art Unit 3731

Assistant Commissioner for Patents  
Box PATENT APPLICATION  
Washington, D.C. 20231

Sir:

This is a request for filing a divisional application under 37 CFR § 1.53(b), of pending prior application no. 09/411,161 filed on October 1, 1999, which claims priority to U.S. Provisional Application No. 60/102,669, filed October 2, 1998.

of Dr. Max Aebi et al.  
(inventor(s) currently of record in prior application)

for SPINAL DISC SPACE DISTRACTOR  
(title of invention)

1. ☒ The filing fee is calculated below:

## PATENT APPLICATION FEE VALUE

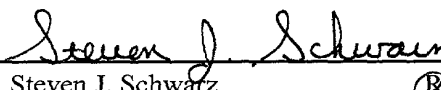
TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	22	-20	2	\$18.00 each	\$ 36.00
Independent	2	-3	0	\$80.00 each	\$ 0.00
Basic Fee					\$ 710.00
Multiple Dependency Fee If Applicable (\$270.00)					0.00
<b>Total</b>					\$ 746.00
50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern					- \$ 0.00
<b>Total Filing Fee</b>					\$ 746.00

2. ☒ Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.
3. ☐ Amend the specification by inserting before the first line the following sentence:  
This is a continuation, division, of application no. , filed .
- 4a. ☐ Transfer the drawings from the prior application to this application and abandon the prior application as of the filing date accorded this application. A duplicate copy of this sheet is enclosed for filing in the prior application file.

- 4b. ☒ New formal drawings are enclosed.
- 4c. ☐ Informal drawings are enclosed.
- 5a. ☒ Priority of application no. 09/411,161 filed on October 1, 1999, which claims priority to U.S. Provisional Application No. 60/102,669, filed October 2, 1998 is claimed.
- 5b. ☐ The certified copy has been filed in prior application no. , filed .
6. ☒ The prior application is assigned of record to Synthes U.S.A., recorded on July 28, 2000 at reel/frame 011496/0178 and also recorded on April 27, 2000 at reel/frame 010763/0256.
- 7a. ☐ The Power of Attorney appears in the original papers in the prior application no. , filed .
- 7b. ☒ A copy of the Power of Attorney in prior application no. 09/411,161 filed October 1, 1999 is included herein.
8. ☐ This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no., filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.
9. ☐ The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .
10. ☒ Additional enclosures or instructions: Information Disclosure Statement and PTO-Form 1449.

Respectfully submitted,

Date June 14, 2001



Steven J. Schwarz

Brian M. Poissant

PENNIE & EDMONDS LLP

1667 K Street, N.W.

Washington, D.C. 20006

(202) 496-4400

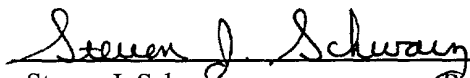
Reg. No. 47,070

Reg. No. 28,462

- 4b. ☒ New formal drawings are enclosed.
- 4c. ☐ Informal drawings are enclosed.
- 5a. ☒ Priority of application no. 09/411,161 filed on October 1, 1999, which claims priority to U.S. Provisional Application No. 60/102,669, filed October 2, 1998 is claimed.
- 5b. ☐ The certified copy has been filed in prior application no. , filed .
- 6. ☒ The prior application is assigned of record to Synthes U.S.A., recorded on July 28, 2000 at reel/frame 011496/0178 and also recorded on April 27, 2000 at reel/frame 010763/0256.
- 7a. ☐ The Power of Attorney appears in the original papers in the prior application no. , filed .
- 7b. ☒ A copy of the Power of Attorney in prior application no. 09/411,161 filed October 1, 1999 is included herein.
- 8. ☐ This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no., filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.
- 9. ☐ The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .
- 10. ☒ Additional enclosures or instructions: Information Disclosure Statement and PTO-Form 1449.

Respectfully submitted,

Date June 14, 2001

  
 Steven J. Schwarz  
 Brian M. Poissant  
 PENNIE & EDMONDS LLP  
 1667 K Street, N.W.  
 Washington, D.C. 20006  
 (202) 496-4400

Reg. No. 47,070  
 Reg. No. 28,462